
SUSPENDED DRIVER NOT ENTITLED TO DISCRETIONARY RELIEF FROM FORFEITURE OF COVERAGE

Reported Case:	Williams v. York Fire & Casualty Insurance Co.
Citation:	2007 ONCA 479
At Issue:	Whether suspended driver entitled to relief from forfeiture of coverage under s. 129 of Ontario <i>Insurance Act</i> ?
The Court:	Ontario Court of Appeal
Judgment Rendered:	June 27, 2007
Factual Summary:	Driver owned vehicle insured in Ontario, but was involved in single-vehicle collision in BC on May 16, 2004. Driver filed proof of loss, but was denied coverage after insurer checked driver's abstract and discovered driver's license had been suspended effective the day of the accident.
Disposition By Lower Court:	Trial judge exercised discretion pursuant to s. 129 of <i>Insurance Act</i> which provides for relief from forfeiture for imperfect compliance with statutory condition as to proof of loss. Driver was unaware of suspension at time of accident, as he had not been home to Ontario in some time, and was unaware of communications from Ministry of Transportation.
Appellate Decision:	Appeal allowed. Section 129 of <i>Insurance Act</i> relates to relief from forfeiture with respect to statutory or contractual terms where there has been imperfect compliance with respect to the proof of loss; the section does not apply generally to all policy conditions. Court's power is only in relation to things occurring after the loss. Whether an insured is authorized to drive an automobile at the time of the accident is an issue of coverage within the language of the policy; it is not a condition of proof of loss. Court declined to consider the issue of policy interpretation. Driver not entitled to discretionary relief from forfeiture under s. 129 of <i>Insurance Act</i> .